

ILLINOIS POLLUTION CONTROL BOARD

January 5, 1978

KEATHEN WILSON,)
)
 Petitioner,)
)
 V.) PCB 77-52
)
 ENVIRONMENTAL PROTECTION AGENCY,)
)
 Respondent.)

MR. RICHARD G. YOUNGE APPEARED ON BEHALF OF PETITIONER.
MR. ROBERT BAREWIN APPEARED ON BEHALF OF RESPONDENT.

OPINION AND ORDER OF THE BOARD (by Mr. Goodman):

This matter comes before the Board upon the Petition filed February 14, 1977, by Keathen Wilson appealing the Agency's revocation of his Class 3 Certificate of Competency as a wastewater treatment facility operator. On April 28, 1977, the Board ordered that the matter be set for hearing, that the burden of proof be on the Agency, and that Mr. Wilson's certificate remain valid at least until the Board had rendered its final decision. Hearings were held in this matter on May 26, August 30, and September 2, 1977.

Testimony at the hearings indicated that the Agency revoked Mr. Wilson's Certificate based on its belief that it was not Mr. Wilson, but another man, who had actually taken the Class 3 exam on October 1, 1976, and signed Mr. Wilson's name to it. The Agency presented several witnesses who testified as to the circumstances surrounding their discovery of this alleged fraud and their decision to revoke the permit. The gist of the Agency's testimony is that the proctors of the exams given in October and November, 1976 discovered that a man described as a 300-pound, black man, limping and using a cane, had taken both tests but had signed them under different names, one of which was Keathen Wilson (R.98, 153). A call to the sewage treatment plant at which Mr. Wilson was employed revealed that Mr. Wilson did not match this physical description, but that another man, a Mr. Ledbetter, who had been employed at the plant (R.233), did. The Agency had in its files a picture of Mr. Ledbetter from his application for a Certificate of competency

and the proctor of the October exam identified him as the man who had signed his exam with the name Keathen Wilson (R.100, 118). The Agency then sent Keathen Wilson two letters by certified mail informing him of "irregularities" they had found. They received no response (R.22). On January 31, 1977, they sent him a letter revoking his certificate. They based their revocation on the proctors' statements and a comparison of the signature on Mr. Wilson's exam with those on his application and return receipts from the letters mailed to him (R.225, 230).

Presenting the only testimony on his behalf, Mr. Wilson denied the Agency's allegations and stated that he, himself, did in fact take the October 1 exam. He testified that at the time of the exam he was suffering from gout which caused him to limp and use a cane (R.292-294). He further testified that a secretary signed his name to his application and his niece signed the return receipts so that a comparison of these signatures with that on the exam would be meaningless (R.288, 316).

The Board finds that, based upon the testimony presented at the hearings herein, there is considerable reason to doubt that Mr. Wilson himself was in fact present at the October 1 exam. However, the Board's primary function is to protect the people of the State of Illinois from environmental damage. If Mr. Wilson is able to take and pass the exam, the integrity of the certification procedure which is ultimately aimed toward protecting the environment will be upheld. Rather than passing judgment on Mr. Wilson's honesty, the Board will order that he re-take the exam within 90 days of the date of this Order. His certificate shall no longer be valid if he fails the exam or does not take the exam within the allotted 90 days. Until such time, his certificate shall remain valid. The Agency shall waive any requirements which would have prevented him from re-taking the exam at this time and shall waive any application fee requirements.

This Opinion constitutes the findings of fact and conclusions of law of the Board in this matter.

ORDER

It is the Order of the Pollution Control Board that:


1. The Agency's revocation of Keathen Wilson's Class 3

Certificate of Competency shall be reversed, subject to the condition that Keathen Wilson take and pass the Class 3 Certification of Competency exam within 90 days of the date of this Order.

2. The Agency shall waive any requirements which would ordinarily prevent Mr. Wilson from taking the exam and shall waive any application fee.

Mr. Young dissents.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Opinion and Order was adopted on the 8th day of January, 1978 by a vote of 4-1.


Christan L. Moffett, Clerk
Illinois Pollution Control Board